

REMARKS

The pending claims relate to oil-in-water (O/W) emulsions containing a specified copolymer and oil globules which are monodispersed. One significant benefit resulting from this unique combination of ingredients is that surfactants are not necessary to stabilize O/W emulsions containing these ingredients. As noted in the present specification, inclusion of surfactants in O/W emulsions can be problematic because emulsions containing surfactants can require specific, limited manufacturing conditions and/or cause skin irritation upon application. Thus, this unique combination of ingredients in O/W emulsions addresses, among other things, such problems associated with previous surfactant-containing emulsions. As such, the present invention is novel and represents an advance in the art deserving of patent protection.

In view of this background, the rejections made in the outstanding Office Action will now be addressed in turn.

THE SPECIFICATION AND THE ABSTRACT

Applicants respectfully submit that the amendments to the specification and the abstract set forth above address the Office Action's concerns regarding Applicants' priority claim as well as the length of the abstract.

REJECTION UNDER 35 U.S.C. §112

The Office Action rejected claims 20-29 and 33-38 under 35 U.S.C. §112, first paragraph, as containing subject matter not described in the specification. Specifically, the Office Action asserted that the specification does not describe an O/W emulsion that may

contain a surfactant. Applicants respectfully traverse this rejection and request reconsideration thereof.

Support for claims 20-29 and 33-38 is found at page 1, lines 1-7 which do not relate to emulsions lacking surfactant. Furthermore, the present specification supports these claims by stating that the emulsions can be used, for example, as care and/or cleansing products for hair and/or skin, (page 7, lines 13-21), and can contain ingredients common in cosmetics and dermatology. (Page 8, line 8 et seq.). It is well-known that skin and hair products, particularly products for cleansing hair and/or skin, can contain surfactants as, for example, “active ingredients.” (See generally, U.S. patent 5,629,279, copy attached). Thus, although one significant benefit arising from the claimed O/W emulsions is that surfactants do not have to be added to stabilize the emulsion, the present specification clearly contemplates addition of surfactants as, for example, ingredients commonly used in cosmetics and/or dermatology. Accordingly, Applicants respectfully submit that the §112 rejection should be withdrawn.

REJECTION UNDER 35 U.S.C. §102

The Office Action rejected claims 1-10, 14-29 and 33-38 under 35 U.S.C. §102 as anticipated by JP 09255529 (“JP ‘529”).¹ In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

The Rule 132 declaration submitted concurrently herewith demonstrates that JP ‘529 does not disclose emulsions containing oil globules which are monodispersed. Because the pending claims require the presence of oil globules which are monodispersed, JP ‘529 cannot anticipate the pending claims. For this reason alone, the pending rejection should be withdrawn.

¹ An English translation of this reference is submitted concurrently herewith.

Moreover, JP '529 does not render the presently claimed invention obvious. JP '529 neither teaches, suggests, nor recognizes any benefits associated with having oil globules which are monodispersed. This is particularly true with regard to the cosmetic properties associated with emulsions having monodispersed oil globules. As noted in the Rule 132 declaration, JP '529's emulsions, which do not contain monodispersed oil globules, are extremely solid compositions which do not have a pleasant feel when applied to skin. In contrast, the claimed emulsions are creamier compositions which have pleasant application qualities, making such compositions much more desirable to consumers and, thus, a significant advance over JP '529's emulsions.

In view of the above, Applicants respectfully submit that the rejection based upon JP '529 should be withdrawn.

Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

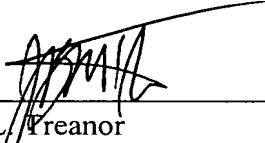
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IN THE SPECIFICATION

Please insert at Page 1, line 1.

This application claims priority under 35 U.S.C. § 371 from PCT application no. PCT/FR99/02361, filed October 4, 1999, and under 35 U.S.C. § 119 from French patent application serial no. 98/12622, filed October 8, 1998.

IN THE CLAIMS

1. (Twice Amended) An emulsion comprising an oily phase dispersed in an aqueous phase, characterized in that the globules of the oily phase have an average size of less than 20 microns and are monodispersed, in that the oily phase constitutes at least 15% by weight relative to the total weight of the emulsion and in that the aqueous phase contains at least one copolymer consisting of a major fraction of monoolefinically unsaturated C₃-C₆ carboxylic acid monomer or its anhydride and a minor fraction of acrylic acid fatty-chain ester monomer, and in that it is free of surfactant.

20. (Amended) An emulsion comprising an oily phase dispersed in an aqueous phase, characterized in that the globules of the oily phase have an average size of less than 20 microns and are monodispersed, in that the oily phase constitutes at least 15% by weight relative to the total weight of the emulsion and in that the aqueous phase contains at least one

copolymer consisting of a major fraction of monoolefinically unsaturated C₃-C₆ carboxylic acid monomer or its anhydride and a minor fraction of acrylic acid fatty-chain ester monomer.

Claims 14 and 33 (canceled)